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VIA E-FILE

February 18, 2005

Honorable Mark L. Wolf
United States District Court for the
District of Massachusetts
1 Courthouse Way
Boston, Massachusetts 02210

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Re: Louis M. Gerson Company, Inc. v. 3M Company
No. 04-12389 (MLW/RBC)
Our Ref.: 185764-001LL1

Dear Judge Wolf:

Defendant 3M Company ("3M") submits this letter to apprise the Court of recent developments in and the status of the suit brought by 3M against Louis M. Gerson Company ("Gerson") in the District of Minnesota, styled *3M Innovative Properties Co. v. Louis M. Gerson Co.*, No. 04-4859 (D. Minn. filed Nov. 23, 2004) ("the Minnesota action"). The Minnesota action is a patent infringement suit based on U.S. Patent No. 6,820,824 ("the '824 patent"). As the Court is aware, Gerson has alleged that the '824 patent is also at issue in the present suit. Whether this Court should adjudicate the dispute relating to the '824 patent is one of the issues presently pending before Your Honor.

On December 9, 2004, Gerson filed in the Minnesota action a motion captioned "Defendant's Motion to Dismiss, Stay or Transfer this Action Pursuant to the First-To-File Rule." (The memorandum in support of the motion is attached as Ex. A). This motion addressed an identical issue to one raised in the present action – whether the present action or the Minnesota action was the first filed case directed to the '824 patent. Following a hearing on January 31, 2005, Judge Erickson of the District of Minnesota denied Gerson's motion to dismiss or transfer the Minnesota action. (A copy of the Court Minutes from that hearing are attached as Exhibit B.)

Subsequently, on February 11, 2005, Gerson filed in the Minnesota Action a "Motion to Dismiss for Lack of Subject Matter Jurisdiction or, in the Alternative, Motion for Summary Judgment." (The memorandum in support of the motion is attached as Ex. C). The grounds argued in the motion include non-infringement of the '824 patent.

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Finally, on February 14, 2005, Gerson filed an Answer and Counterclaims in the Minnesota action. (Attached as Ex. D). The counterclaims include counts of invalidity and non-infringement of the '824 patent.

Thus, Gerson itself is proceeding with litigation on the '824 patent in the Minnesota action. Should any further developments in the Minnesota action potentially affect this case, we will update the Court accordingly.

Respectfully submitted,

/s/ Frank E. Scherkenbach

Frank E. Scherkenbach
Attorneys for Defendant 3M Company

cc: Robert L. Kann (via facsimile & e-filing)
Attorney for Louis M. Gerson Company